IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.8575 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr. M.V. Aiya, for the Petitioners

Mr. Vijay Pandey with Mr. Rahul Rao, for the Respondents.
CORAM: F.I.REBELLO, J.
DATE : 24TH JANUARY, 2005
P.C.

. The petitioners impugned the order dated July 5, 2004 of the Appellate Authority under the Maharashtra Co-operative Societies Act. The first challenge is that the trial Court recorded a finding that the Bye-laws had not been amended and at any rate the Registrar has not approved the same. For that purpose reference is sought to be placed on Exhibit "G" dated 1st October, 2003. It is then submitted that there is a finding recorded by the Lower Appellate Authority that there was no resolution to charge interest at 21%. At any rate it is submitted that the Appellate Authority considering the prayer clause by the Respondents themselves had claimed interest from 1st July, 2001 could not have awarded interest from 1st June, 2001.

2. On hearing the learned Counsel

for the parties it is clear that the Appellate Authority after considering the material has recorded a finding that the Model Bye-laws were adopted under resolution of the Special General Body Meeting held on 20th June, 1990. Once the Model Bye-laws were adopted the question of Registrar once again giving approval to the said resolution would not arise as they would be pursuant to the directions. Even otherwise on behalf of the Respondents learned Counsel contends that even in the earlier Bye-laws interest could be levied at 21%. That contention must be, therefore, rejected. In so far as the finding that no resolution was passed the Appellate Authority considered the record and recorded a finding of fact that the resolution was passed on 21st February, 1999, Nothing has been shown to the contrary. The document at Exhibit G was not before the Appellate Authority. Even otherwise that would be contrary to the finding recorded by the Appellate Authority and consequently cannot be taken into consideration. The second contention also must be rejected.

3. However, there seems to be an typographical error in the order of the

Appellate Authority considering that the Respondents themselves in Appeal had sought interest from 1st July, 2001. To that extent the impugned order is modified. The interest at 21% on the dues to be calculated with effect from 1st July, 2001. On behalf of the respondents learned Counsel states that though the order of the trial Court is set aside yet they will give statement of accounts to the petitioner. Statement accepted. Petition disposed of accordingly.

(F.I. REBELLO, J.)